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9 Attorneys for Petitioners and Plaintiffs

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE COUNTY OF LOS ANGELES**

13 KATHERINE MCNENNY and ADRIAN
14 RISKIN,

15 Petitioners and Plaintiffs,

16 vs.

17 LOS ANGELES CHINATOWN BUSINESS
18 COUNCIL, a non-profit corporation,

19 Respondent and Defendant.

) Case No.: BS174784

)
) **SUPPLEMENTAL BRIEF IN SUPPORT OF**
) **VERIFIED PETITION FOR WRIT OF**
) **MANDATE AND COMPLAINT FOR**
) **DECLARATORY AND INJUNCTIVE**
) **RELIEF UNDER THE CALIFORNIA**
) **PUBLIC RECORDS ACT**

) [Gov't Code §§ 6250, *et seq.*; Civ. Proc. Code
) §§ 1085, *et seq.*]

) **DATE: July 24, 2019**

) **TIME: 9:30 a.m.**

) **DEPT: 86**

) **JUDGE: HON. MITCHELL L. BECKLOFF**
)

1 On May 22, 2019, Petitioners filed an Opening Brief in this matter. Since that date, the
2 Court on July 3, 2019 granted Petitioners' Motion to Compel Respondent's verified responses to
3 form interrogatories, special interrogatories, and requests for production of documents and things,
4 and for truth of matters in requests for admission to be deemed admitted. *A true and accurate copy*
5 *of the Court's minute order granting Petitioners' Motion to Compel is attached as Exhibit A; a true*
6 *and accurate copy of Petitioners' Requests for Admission is attached as Exhibit B.*¹ Petitioners
7 hereby file this Supplemental Brief in order to incorporate Respondent's new admissions into their
8 arguments.²

9 Respondent has now admitted all pertinent factual and legal allegations against it.
10 Importantly, Respondent has admitted that "all of the records that Petitioners requested are not
11 properly subject to any of the exemptions under California Government Code § 6254."³ *Exhibits A,*
12 *B.* Respondent has further admitted that: it did not produce any records in response to any of
13 Petitioners' requests; it failed to conduct a reasonable search for the records that Petitioners
14 requested; and it failed to review the records that Petitioners requested to determine whether they
15 were properly disclosable under the California Public Records Act ("CPRA"). *Id.* Respondent has
16 also admitted that the email address, mailing address, and telephone number where Petitioners
17 requested records all belong to Respondent, making clear that Respondent received and ignored
18 Petitioners' requests. *Id.*

19 Moreover, Respondent has admitted that it violated various specific sections of the CPRA.
20 Respondent has admitted that it violated § 6253(b) by failing to provide Petitioners with the non-
21 exempt records they requested and by failing to make the non-exempt records they requested
22 promptly available. *Id.* Respondent has admitted that it violated § 6253(c) by failing to notify
23 Petitioners within 10 days whether their requests sought any disclosable records and the estimated
24

25 ¹ Petitioners have prepared a draft proposed order for the motion to compel and are in the process of requesting
26 Respondent's approval of the proposed order as to form. Because the deadline to submit briefing in this case falls on
27 July 9, 2019, prior to the final date for Respondent to approve the draft proposed order, Petitioners include here the July
28 3, 2019 minute order rather than the still-pending proposed order.

² The Opening Brief totaled 13 pages and 4 lines, leaving 1 page and 24 lines unused. Because this brief totals less than
1 page and 24 lines, it can be incorporated into the total 15-page limit for Petitioners' Opening Brief.

³ Unless otherwise specified, all statutory citations are to the California Government Code.

1 date and time when disclosable records would be made available. *Id.* Respondent has admitted that
2 it violated § 6253(d) by failing to notify Petitioners of the names and titles of each individual
3 responsible for its denial of their requests and by delaying or obstructing their receipt of non-exempt
4 public records. *Id.*

5 Notably for Petitioners' requested declaratory and injunctive relief, Respondent has admitted
6 that it has a "pattern and practice of failing to lawfully respond to California Public Records Act
7 requests as required" under the Government Code. *Id.*

8 Particularly in light of these new admissions, it is clear that Respondent violated the
9 California Public Records Act. Pursuant to the arguments set forth in Petitioners' Opening Brief, as
10 well as the arguments set forth in the present Supplemental Brief, Petitioners' respectfully request
11 that the Court grant their Petition for Writ of Mandate and Complaint for Declaratory and Injunctive
12 Relief under the CPRA.

13 DATED: July 4, 2019


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ANNA VON HERRMANN
16 Attorney for Petitioners and Plaintiffs
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EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 86

BS174784

**KATHERINE MCNENNY ET AL VS LOS ANGELES
CHINATOWN BUSINESS CO**

July 3, 2019

9:30 AM

Judge: Honorable Mitchell L. Beckloff
Judicial Assistant: F. Becerra/N.
Marshalian(JAT)
Courtroom Assistant: B. Hall

CSR: D. Van Dyke, CSR# 10795
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Anna M. von Herrmann by Joseph Wangler (296901)

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Hearing on Petitioner's Motion to Compel Respondent's Verified Responses to Form Interrogatories, Special Interrogatories, and Request for Production of Documents and Things and Requests For Admission to Be Deemed Admitted

The matter is called for hearing.

The Court having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The Motion to Compel Responses to Discovery filed by Katherine McNenny, Adrian Riskin on 04/29/2019 is Granted. Motion is granted on the condition that the proposed order include notice given for today's hearing. Proof of service is for old date.

Request for admissions are deemed admitted. Responses are due 10 days after service.

Respondent to pay monetary sanctions to Petitioner in the sum of \$2,383.50, payable within 30 days.

Counsel for moving party is to prepare and lodge proposed order directly in Department 86.

Counsel for moving party is to give notice.

EXHIBIT B

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**

12 KATHERINE MCNENNY and ADRIAN
13 RISKIN,
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15 Petitioners and Plaintiffs,
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17 vs.

16 LOS ANGELES CHINATOWN BUSINESS
17 COUNCIL, a non-profit corporation,

18
19 Respondent and Defendant.
20

) Case No.: BS174784

) **PETITIONERS' REQUESTS FOR**
) **ADMISSION (SET ONE) TO**
) **RESPONDENT LOS ANGELES**
) **CHINATOWN BUSINESS COUNCIL**

) **Department: 86**
) **Judge: Hon. Mitchell L. Beckloff**
)
)

21
22 Propounding Party: PETITIONERS/PLAINTIFFS KATHERINE MCNENNY AND
23 ADRIAN RISKIN

24 Responding Party: RESPONDENT/DEFENDANT LOS ANGELES CHINATOWN
25 BUSINESS COUNCIL, a non-profit corporation

26 Set Number: One

27
28 TO RESPONDENT/DEFENDANT LOS ANGELES CHINATOWN BUSINESS COUNCIL

1 AND ITS ATTORNEYS OF RECORD HEREIN:

2 **DEMAND IS HEREBY MADE** pursuant to Code of Civil Procedure section 2031.010 *et*
3 *seq.*, Petitioners/Plaintiffs KATHERINE MCNENNY and ADRIAN RISKIN ("PETITIONERS")
4 request that Respondent/Defendant LOS ANGELES CHINATOWN BUSINESS COUNCIL
5 ("RESPONDENT") respond in writing to the following Requests for Admission ("RFAs) within
6 thirty (30) days of service upon you. Petitioners request that your response be submitted via email to
7 Petitioners' counsel at anna@vonherrmannlegal.com, or at another place as may be mutually agreed
8 upon, within thirty (30) days.

9 In answering these RFAs, you are requested to provide and utilize all information which is
10 available to you, your agents, representatives, employees, attorneys and investigators, and not just
11 such information as in your personal possession or knowledge. If you are unable to answer any RFA
12 after exercising due diligence in attempting to do so, please so state and indicate the reason for your
13 inability to answer the remainder.

14 If objections are interposed to any RFA, the complete basis should be stated. If it is contended
15 that any information sought is privileged by the attorney-client privilege or work product doctrine, it
16 is requested that the factual basis of such privilege be stated and that the same not be asserted in
17 conclusory terms.

18 **DEFINITIONS**

19 Unless otherwise indicated, the following definitions apply to these RFAs as used herein:

20 1. "YOU", "YOUR," and "RESPONDENT" shall mean the party to whom the following
21 requests are addressed and any AGENT or representative of the party.

22 2. "AGENT" shall mean and refer to any employee, owner, partner, director, officer,
23 attorney, representative or other person with a relationship to a government agency, firm, person,
24 corporation, or business association, who has the express, implied, or legal authority to act on behalf
25 of that government agency, firm, person, corporation, or business association.

26 3. "PERSON" shall mean and refer to a natural person, firm, association, organization,
27 partnership, business, trust, limited liability company, corporation, or public entity.

1 4. "ADDRESS" shall mean the street address including the city, state, zip code, and
2 telephone number.

3 5. The term IDENTIFY, when used in reference to a PERSON, means to set forth the
4 PERSON's full name, current or last known address(es), telephone number(s), employer, position
5 with employer, and area of responsibility. The term IDENTIFY, when used in reference to an entity
6 that is not an individual, means to set forth the entity's full name, current or last known address(es)
7 and telephone number(s). The term IDENTIFY, when used in reference to DOCUMENTS means to
8 describe with specificity such DOCUMENTS and to state the quantity of such DOCUMENTS.

9 6. "DOCUMENT" or "DOCUMENTS" or "DOCUMENTATION" shall be construed in the
10 most comprehensive and inclusive sense permitted. This definition shall mean without limitation
11 any written, typed, printed, recorded, or graphic matter, however preserved, produced, or
12 reproduced, of any type or description, regardless of origin or location, including without limitation
13 any binder, cover note, certificate, letter, correspondence, record, table, chart, analysis, graph,
14 schedule, report, test, study, memorandum, note, list, diary, log, calendar, telex, e-mail, message
15 (including, but not limited to, interoffice and intra-office COMMUNICATIONS), questionnaire,
16 bill, purchase order, shipping order, contract, memoranda of contract, agreement or understanding,
17 assignment, license, certificate, permit, ledger, ledger entry, book of account, check, order, invoice,
18 receipt, statement, financial data, acknowledgement, computer or data processing card, computer or
19 data processing tape or disk, computer-generated matter, photograph, photographic negative,
20 phonograph recording, transcript or log of any such recording, projection, videotape film,
21 microfiche, and all other data compilations from which information can be obtained or translated as
22 well as reports and/or summaries of investigations, drafts, and revisions of drafts of any
23 DOCUMENTS, and original preliminary notes or sketches, no matter how produced or maintained,
24 in your actual or constructive possession, custody, or control, or the existence of which you have
25 knowledge, and whether prepared, published, or released by you or by any other person. If a
26 DOCUMENT has been prepared in several copies, or additional copies have been made, and some
27 copies are not identical (by reason of subsequent modification through the addition of notations,

1 etc.), each non-identical copy should be produced as a separate DOCUMENT.

2
3 7. "RECORD" or "RECORDS" shall carry the same definition as "Writing" under California
4 Government Code §6252(g).

5 8. "REFER," "REFERS TO," "REFERRING TO," OR "RELATING TO" shall mean
6 pertaining to, mentioning, commenting on, connected with, discussing, describing, analyzing,
7 explaining, showing, reflecting, dealing with, comprising of, consisting of, containing, constituting,
8 resulting from, or recording a particular subject in whole or in part either directly or indirectly.

9 9. "ANY" shall also mean "ALL" and vice versa.

10 10. "AND" shall mean "OR" and vice versa.

11 **REQUESTS FOR ADMISSION**

12
13 **RFA #1.**

14 Admit that YOU did not produce ANY RECORDS in response to ANY of Petitioners'
15 requests.

16 **RFA #2.**

17 Admit that YOU failed to conduct a reasonable search for the RECORDS that Petitioners
18 requested.

19 **RFA #3.**

20 Admit that YOU failed to review the RECORDS that Petitioners requested to determine
21 whether they were properly disclosable under the California Public Records Act ("CPRA").

22 **RFA #4.**

23 Admit that YOU violated California Government Code § 6253(c) by failing to notify
24 Petitioners, within 10 days of receiving each of Petitioners' requests, of YOUR determination
25 whether Petitioners' requests sought ANY disclosable RECORDS AND the reasons for YOUR
26 determination.
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2 **RFA #5.**

3 Admit that YOU violated California Government Code § 6253(c) by failing to notify
4 Petitioners, within 10 days of receiving each of Petitioners' requests, of the estimated date AND
5 time when ANY RECORDS YOU determined to be disclosable would be made available.

6 **RFA #6.**

7 Admit that YOU violated California Government Code § 6253(b) by failing to provide
8 Petitioners with the non-exempt RECORDS they requested.

9 **RFA #7.**

10 Admit that YOU violated California Government Code § 6253(b) by failing to make the
11 non-exempt RECORDS that Petitioners requested promptly available.

12 **RFA #8.**

13 Admit that YOU violated California Government Code § 6253(d) by failing to notify
14 Petitioners of the names AND titles OR positions of each individual responsible for YOUR
15 denial of their request for RECORDS.

16 **RFA #9.**

17 Admit that YOU violated California Government Code § 6253(d) by delaying OR
18 obstructing Petitioners' receipt of non-exempt public RECORDS.

19 **RFA #10.**

20 Admit that info@chinatownla.com is YOUR email address.

21 **RFA #11.**

22 Admit that 213-680-0243 is YOUR telephone number.

23 **RFA #12.**

24 Admit that 727 North Broadway, Suite 208, Los Angeles, CA 90012 is YOUR mailing
25 address.

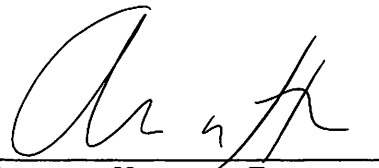
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2 **RFA #13.**

3 Admit that YOU have a pattern and practice of failing to lawfully respond to California
4 Public Records Act requests as required under California Government Code § 6250 *et seq.*

5 **RFA #14.**

6 Admit that ALL of the RECORDS that Petitioners requested are not properly subject to
7 ANY of the exemptions under California Government Code § 6254.
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9
10 Dated: January 20, 2019

11 By: 
12 Anna von Herrmann, Esq.,
13 Attorney for Petitioners and Plaintiffs
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